

<b>3.3 REFERENCE NO - 19/502540/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of 3no. existing outbuildings. Conversion of outbuilding together with single storey extensions to create 1no. dwelling and a detached garage/store.		
<b>ADDRESS</b> Bramble Hall Farm Bushey Close Boughton Under Blean Faversham Kent ME13 9AE		
<b>RECOMMENDATION</b> Refuse		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council supports the application.		
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN COUNCIL</b> Boughton Under Blean	<b>APPLICANT</b> Mrs M Berry <b>AGENT</b> Jonathan Gale Architects LTD
<b>DECISION DUE DATE</b> 01/08/19	<b>PUBLICITY EXPIRY DATE</b> 12/07/19	

## 1. DESCRIPTION OF SITE

- 1.1 This application site includes four small poor quality agricultural buildings, measures approx. 0.13 hectares, and is set in an isolated rural lane which is in fact a cul-de-sac known as Bushey Close. Bushey Close is a quiet, narrow country lane which is accessed off Brickfield Lane, a lane designated as a protected rural lane in the Council's adopted Local Plan. A public footpath runs along the western boundary of the site, which lies around 350m south-west of the village of Boughton and 180m south-west of the A2 Trunk Road. Immediately to the south of the site is Bramble Hall, a Grade II listed dwelling house which sits on higher ground.
- 1.2 The application site is approx. 5km by road to Faversham town centre and train station and 1km to the village of Boughton-Under-Blean. Access to most local facilities requires a car journey. The location is outside any settlement and in the countryside.
- 1.3 The disused farm buildings, which are not curtilage listed, consist of hoppers huts, an open fronted hay store, a double garage block and a steel framed building, with a single roundel base at the entrance to the site. The buildings are in a poor condition and are overgrown with ivy and dense vegetation.
- 1.4 Bramble Hall is occupied by a relation of the applicant but is not involved in the farm business. The adjacent fields accommodate seasonal workers' caravan accommodation, which is occupied during the hop, fruit and grape harvests each year.

## 2. PROPOSAL

- 2.1 The proposal is for removal of three of the four existing buildings and the erection of a new dwelling, which will be single storey with three bedrooms (each with an en-suite) and associated living space. This would involve the demolition of two of the buildings and conversion/extension of one. The fourth building which stands on the opposite side of a private access will be demolished and replaced with a detached garage/store.

- 2.2 The four existing buildings are numbered A, B, C and D on the submitted drawings. Building A consists of corrugated tin walls and a lean-to roof. Building B is set at right angles to building A and is a brick built double garage with an asymmetrically-pitched corrugated tin roof. Building C is constructed of corrugated tin walls and roof formed of two sections, with a pitched roof to one part and a lean-to attachment which drops down in height. Building D is separated from the other three buildings and is constructed of a steel frame, clad in corrugated tin sheeting to the walls and pitched roof.
- 2.3 The new dwelling would be formed of three main rectangular blocks joined by means of linking structures around a courtyard area, similar to the extant configuration but of a larger scale than the present buildings. The proposed U-shape building would remain symbolically as three main buildings but they would no longer be physically separate from one another since they would be connected with link buildings. The proposed exterior treatment is tile roofing over brick and weather boarded elevations with contemporary style fenestration.
- 2.4 The application is supported by a number of reports including the following:
- Design and Access Statement
  - Heritage Statement
  - Agricultural Appraisal
  - Bat and Owl Roost Appraisal
- 2.5 From the above listed reports, I draw the following summarised key points:
- 2.6 Design and Access Statement
- The siting of the proposed house continues the farming association with the yard
  - The proposed house forms the same shape and virtually the same size as the existing collection of buildings
  - The materials chosen are all traditional – clay peg tiles and weatherboard
  - The buildings have not been used for agriculture for many years yet the story is still there to see
  - The gross area is under 200sqm
  - The property will be to modern standards and will be built to be energy efficient, incorporating an air source heat pump
  - The site is closely connected to Boughton-Under-Blean by footpath, approx. half a km between the proposed house and the High Street
- 2.7 Heritage Statement
- The setting of the heritage asset, although remaining rural, has already been affected by the post-1940s ancillary buildings as well as the construction of the nearby A2

- Given the footprint of the proposed development is not dissimilar to the existing buildings, and that it will utilise what it can of their brickwork, while not exceeding the current buildings in height, it can be argued that the development would not significantly alter the setting

## 2.8 Agricultural Appraisal

- The existing buildings cannot accommodate or provide safe storage of modern farm machinery
- The two older tin clad buildings provide no functionality in farming terms and there is no relationship between these buildings and the garage to serve any useful farming purpose
- The original designation of these buildings for seasonal worker accommodation would have been appropriate at the time but current requirements are more efficiently and easily met by provision of accommodation in caravans and/or mobile homes.
- The proposal will enhance a cluster without intrusion on landscape or local amenity.
- The applicants, Mr and Mrs Berry currently live in the farmhouse based at Brenley Farm, Boughton, comprising of an agricultural holding of approx. 228 acres which is let to them by the Duchy of Cornwall. Their son has now taken over as Managing Director of the farm business and terms have been agreed whereby he can be added to the tenancy as a successor, enabling him and his family to move into the farmhouse without breaching the tenancy agreement. This means that Mr and Mrs Berry need to establish alternative accommodation.

## 2.9 Bat and Owl Roost Appraisal

- There is no evidence of owl or bat occupation in any of the buildings
- The only building that has minor potential for bat occupation is the double garage and therefore would warrant a controlled demolition under the supervision of the Project Ecologist

2.10 The applicant sought pre-application advice prior to submitting the application and was advised that the erection of a new dwelling here was unlikely to be supported as the site was not a suitable location for housing. The possible fall-back position of converting the agricultural buildings into residential dwellings was also found unlikely to be lawful as only the brick built agricultural building would be capable of functioning as a dwelling house and the other two would need to be entirely rebuilt. This position has not yet been tested or established by application.

## 3. **PLANNING CONSTRAINTS**

### 3.1 Adjacent to listed building

Outside established Built-up-Area Boundary

## 4. **POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF): Paragraphs 8, 11, 12, 78, 79, 83 and 196
- 4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies ST1 (Delivering sustainable development in Swale), ST3 (The Swale Settlement Strategy), ST7 (The Faversham area and Kent Downs Strategy), CP3 (Delivering a wide choice of high quality homes), CP4 (Requiring good design), DM3 (The rural economy), DM7 (Vehicle Parking), Policy DM14 (General Development Criteria), DM26 (Rural Lanes), DM32 (Development involving Listed Buildings)
- 4.3 Supplementary Planning Guidance (SPG): The Conservation of Traditional Farm Buildings
- 4.4 In my view the key policies here are ST1 and ST3, although others are of relevance. Policy ST1 seeks sustainable development which accords with the Plan's settlement strategy. This is set out in policy ST3 (see below) and this is a location where a new build house would not normally be approved unless related to a functional rural need as provided for by policy DM12. That case is not advanced here, but the application focusses on redevelopment of this site due to no meaningful agricultural use of the four buildings.
- 4.5 Previously Developed (or brownfield) Land is defined by the NPPF as;

*“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. **This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.**” (my boldening)*

In this case, as the buildings are of agricultural origin and last used as such, the site does not meet the NPPF definition of previously developed (or brownfield) land. The site should therefore be considered to be a greenfield one in a rural location where an isolated new dwelling should not be permitted.

- 4.6 The NPPF at paragraph 79 advises against isolated new dwellings in the countryside other than in exceptional circumstances, none of which apply here. Nor is the development likely to support services in adjacent villages as suggested by paragraph 78 of the NPPF as there are very few such facilities and most need will be met at Canterbury or Faversham.
- 4.7 The site is also accessed via a lane designated in the Local Plan as a rural lane, where policy DM26 seeks to safeguard against development that would either physically, or as a result of traffic levels, significantly harm the character of rural lanes. In this case I believe that an additional dwelling here will detract from the generally undeveloped nature of the lane in question, to its detriment.

- 4.8 Finally, at paragraph 196 of the NPPF the advice is that where development will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use. In this case I can see no any public benefit to offset any harm arising to the rural agricultural setting of the listed building by the replacement of typical small farm buildings with a new dwellinghouse.

## **5. LOCAL REPRESENTATIONS**

- 5.1 None

## **6. CONSULTATIONS**

- 6.1 Boughton-Under-Blean Parish Council supports the application. When I asked them to clarify the reasons for this support they responded as follows:

*“We do not have any reasons to not support.*

*It is on an isolated site with the only other property owned by the applicant.”*

- 6.2 Historic England did not consider it necessary for them to be notified and do not comment.
- 6.3 Natural England raises no objection to the application subject to strategic mitigation (SAMMS payment) in respect of possible increased recreational disturbance to The Swale SPA/Ramsar site.
- 6.4 Kent Highways and Transportation considers this to be a non-protocol matter.
- 6.5 The Council's Economy and Community Services Manager supports the application on the basis that the applicant is a well established provider of tourist accommodation. However, the agent has clarified that this application does not propose holiday accommodation, although there may be a few residual B&B customers who have frequented Brenley Farm for many years and to which the applicant has developed good relations with.
- 6.6 The Council's Environmental Health Manager has raised no objection subject to conditions relating to possible land contamination and construction hours.

## **7. BACKGROUND PAPERS AND PLANS**

- 7.1 Application papers and drawings referring to application reference 19/502540/FULL

## **8. APPRAISAL**

The key issues to consider in this case are the principle of development of a new dwelling on this isolated rural site, and the effect on the setting of the adjacent Grade II listed dwellinghouse.

### **Principle of Development**

- 8.1 Firstly, I note that the site is situated some distance outside any established built-up area boundary in an isolated location with poor accessibility to local services, so rural settlement policies are applicable in this case. The site is not allocated for housing; there are no nearby housing allocations. The Council is in the fortunate position of

having a fairly new Local Plan (July 2017) which considered such matters in some depth. Recent government publication of housing delivery tests indicate that the Council has a very slight shortfall in housing delivery, but as noted, that shortfall is very slight. The Swale settlement strategy is set out in Policy ST3 of the Local Plan. Policy ST3 clearly states that;

*'At locations in the countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.'*

8.2 Paragraph 79 of The National Planning Policy Framework 2018 (NPPF) states that:

'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

c) the development would re-use redundant or disused buildings and enhance its immediate setting;

d) the development would involve the subdivision of an existing residential dwelling; or

e) the design is of exceptional quality, in that it:

- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and

- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.'

I consider that the proposal fails to meet these criteria and that it is similar to a number of cases in the Borough (including sites with existing buildings on) where development has been refused and dismissed at appeal in recent years referring to the unsustainable location outside any established built-up area boundary.

8.3 I consider that the appeal decision (APP/V2255/W/17/3183462) for demolition of disused farm buildings and erection of nine residential dwellings at Milstead Manor Farm, Manor Road, Milstead includes comments particularly relevant to this application. The Inspector noted;

*'In this instance the appeal site is within the open countryside but is developed, containing buildings which are primarily agricultural in nature. I have noted the comments made by the appellant and third parties, regarding the condition and appearance of the buildings on the site. Nevertheless, while some of the buildings are in need of repair, they do not have a significant height or mass and are set back from the road.'*

The Inspector further noted that;

*I am not persuaded therefore, that even if I accepted that the removal of the existing buildings on the site would be of benefit, that their replacement with those proposed would not cause material harm to the rural character and appearance of the area..'*

- 8.4 In a similar vein, an appeal for three new dwellings at 1 Boughton Field Cottages, Canterbury Road, Faversham (closer to Faversham than the current application site under planning reference 18/502770/FULL was dismissed due to the site's unsustainable location. The Inspector stating that;

*'Development of the site would be contrary to the settlement strategy of the local plan. Occupiers of the development would have poor access to services and facilities. Redevelopment of the site would materially harm the character and appearance of the open countryside. Accordingly, the proposal would conflict with Policies ST3 and CP3 of the local plan, amongst other things, seek to steer new development to within settlements of appropriate scale and restrict development in the open countryside.'*

- 8.5 A very recent (June 2019) appeal decision for dwellings in the countryside situated to the rear of a dwelling is also relevant; appeal reference APP/V2255/W/18/3218833 as reported to Members at the July 2019 meeting (item 5.1). This proposal was at The Old Woodyard, Upchurch, where replacement of an existing building with new dwellings was refused and then dismissed at appeal. This is of relevance as that site was previously developed land, unlike the existing application site, but was still refused with the Inspector commenting at paragraph 8;

*"The appeal proposal would result in an increase in built form on the site, and the formation of residential curtilages. The proposed dwellings would be noticeably taller and bulkier than the existing outbuilding and would spread development onto the open rear part of the site. As a result, the site would have a more developed and urbanised appearance, which would result in piecemeal erosion by built form of the countryside gap, and would fail to safeguard the open character of the countryside. It would thereby contribute to the erosion of the separate identities and character of the settlements. Whilst I accept that the site is clearly defined and contained and has been in use as a woodyard, the proposal would nonetheless result in a more intensively developed site with a greater quantum of built form. Whilst the site benefits from some screening on the boundaries, the proposed development would be apparent in glimpsed views from the surrounding area and Otterham Quay Lane. I therefore find that it would be harmful to the character and appearance of the area..."*

- 8.6 This year, there have been a number of appeals which have been dismissed for new dwellings in the countryside. This includes an appeal for the change of use of a pool building to a detached bungalow at Greenhurst, Tunstall; appeal reference APP/V2255/W/18/3205706 as reported to Members at the March 2019 meeting (item 5.2). The Inspector concluded at paragraph 16;

*"The significant harm resulting from poor accessibility to services and moderate harm to the character and appearance of the countryside would outweigh the more limited benefits of this proposal."*

Another appeal decision (APP/V2255/W/18/3217204) which shows strong support for the new Local Plan's settlement strategy is at 64 School Lane, Lower Halstow as reported to Members at the June 2019 meeting (item 5.2).

### **Impact on visual amenity and setting of listed building**

- 8.7 The proposed dwellinghouse formed of three main rectangular blocks conjoined by means of linking structures around a courtyard area would undoubtedly seek to re-create the current arrangement of separate buildings, but the enlargement of floorspace and increase in overall height of the proposed dwellinghouse will have a greater impact on the setting of the listed building than the current simple agricultural buildings do. Although the extant buildings are in poor condition, their rustic nature, small scale and instantly recognisable simple agricultural forms do far less harm to the setting of a former farmhouse than the scale and rather complicated form of the proposed new dwelling would.
- 8.8 I note that the current submission contends that the proposed dwelling will be visually more acceptable than the current 'decrepit and mismatched' buildings and as such will protect the landscape setting and enhance the setting of the listed building. Although the ancillary outbuildings are not curtilage listed and not of any obvious merit, they are very much subordinate to the setting of the listed building. They do not intrude excessively on the setting because they are fairly small in scale and have a simple agricultural character which blends into the surroundings, rather than striking a discordant appearance within a rural setting which can happen with the imposition of new buildings. They are also surrounded by greenery and are separate and distinct from one another as well as being 'weathered' both physically to the extent that they do not give rise to significant harm to the wider countryside, nor are the buildings of a kind that one would not expect to find in such a location.
- 8.9 Although the site is reasonably close to the 'Boughton Street conservation area', it is not located within it and is not within the setting of the conservation area largely due to the intervening A2 Trunk Road and the topography, which means that there are no views from the conservation area either to or from the site.
- 8.10 Views from the road and the public footpath to the west of the site allow the listed house to be clearly seen. There are some restrictions on views from directly north of the application site but it remains possible to appreciate the upper storeys of the listed building. Consideration of the setting of listed buildings should be given due weight since, apart from the benefits and virtues of maintaining views and protecting the setting of historic buildings, both for tangible and intangible heritage related factors, this matter is also underwritten by the law and is therefore a material consideration. I believe that although due weight in regards to the setting has been considered by the applicants, that the proposed residence would be detrimental to the setting of the listed building and would cause more harm to its setting than that caused by the existing group of buildings, which would therefore cause harm to the designated heritage asset since it would result in a further loss of significance.
- 8.11 I am of the opinion that the proposal, if approved, would have an adverse impact upon the setting of the Grade II listed dwelling. The proposal is too large in scale, and not in keeping with the setting. The proposed dwelling and garage would be too obtrusive in



the vicinity and would therefore be detrimental to the setting of listed building as well as the wider setting.

### **APPROPRIATE ASSESSMENT UNDER THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017**

- 8.12 This Appropriate Assessment (AA) has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 8.13 SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 8.14 Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 8.15 In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.
- 8.16 The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group
- 8.17 Since this application will result in a net increase in residential accommodation, impacts to the SPA and Ramsar sites may result from increased recreational disturbance. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £245.56 per dwelling. Given that I am not recommending approval of the application, I consider it would serve no material planning purpose to request the applicant agrees to make this mitigation payment, but it remains a matter that should be dealt with if an appeal is lodged against refusal.

## 9. CONCLUSION

- 9.1 I am firmly of the opinion that the proposal would be harmful to the appearance and tranquillity of the countryside in general, and to the immediate locality in particular, being situated adjacent to a listed building and close to a designated rural lane. Furthermore, the site is located in a remote, unsustainable location, on land some considerable distance outside any established built-up area boundary which is also not allocated for housing.
- 9.2 I consider that the proposal is contrary to both local and national policies for isolated new dwellings in the countryside, and I recommend that planning permission is refused.

## 10. RECOMMENDATION

**REFUSE** for the following reasons:

- (1) The proposed dwelling, being situated in an isolated unsustainable location at a considerable distance outside any established built-up area boundary, would represent unsustainable and undesirable consolidation of sporadic development contrary to the approved Swale settlement strategy, harmful to the character of the local landscape, to the character of the rural lane and detrimental to the character of the countryside as a whole, contrary to policies ST1, ST3, ST7, DM14, DM26 and DM32 of Bearing Fruits 2031: The Swale Borough Local Plan 2017; and Paragraphs 8, 11, 12, 79, 83 and 196 of the National Planning Policy Framework.
- (2) The Local Planning Authority has a statutory obligation under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and the proposed development would have a significantly adverse effect on the tranquil rural setting of the Grade II listed dwelling by introducing a more prominent and intrusive form of development. As such, the proposal is contrary to policy DM32 of Bearing Fruits 2031: The Swale Borough Local Plan 2017, and paragraphs 196 of the National Planning Policy Framework.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

